

It is expected that a Quorum of the Personnel Committee, Board of Public Works, and Common Council will be attending this meeting: (although it is not expected that any official action of any of those bodies will be taken)

**CITY OF MENASHA  
BOARD OF APPEALS  
Room 132, Menasha City Center  
100 Main Street, Menasha  
May 29, 2019  
12:30 PM**

**AGENDA**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PUBLIC HEARING**

1. Request of Jerry Dold to allow a proposed addition to the home at 342 Park Street that will encroach upon the required side yard setback.

**D. MINUTES TO APPROVE**

1. Board of Appeals, 4/5/19.

**E. ACTION ITEMS**

1. Request of Jerry Dold to allow a proposed addition to the home at 342 Park Street that will encroach upon the required side yard setback
2. Request of Bethel Lutheran Church to allow an Electronic Message Center (EMC) at 829 Appleton Road, Menasha. (Postponed from April 4, 2019)

**F. ADJOURNMENT**

**City of Menasha  
Board of Zoning Appeals  
Public Hearing**

A Public Hearing will be held by the Board of Zoning Appeals on May 29, 2019 at 12:30pm in Room 132 Menasha City Center, 100 Main Street, Menasha, WI to hear a request of Jerry Dold to allow a proposed addition to the home at 342 Park Street that will encroach upon the required side yard setback.

Absent a variance this action would constitute a violation of Section 13-1-25(f)(2) which requires a minimum side yard setback of six (6) feet and an aggregate minimum width on both sides of sixteen (16) feet.

All interested persons objecting to or supporting this appeal are requested to be present. Written comments may be considered by the Board.

Deborah A. Galeazzi, WCMC  
City Clerk

Publish: May 18, 2019

CITY OF MENASHA  
BOARD OF APPEALS  
Room 132, Menasha City Center  
100 Main Street, Menasha  
April 5, 2019  
MINUTES

A. CALL TO ORDER

Meeting called to order by Chairman Ellis at 9:03 a.m.

B. ROLL CALL

PRESENT: Commissioner Koslowski, Kubiak, Roush, Ellis

EXCUSED: Commissioner Tines

ALSO PRESENT: CDD Schroeder, CDC Heim, CA Captain, Clerk Galeazzi.

C. PUBLIC HEARING

1. Request of Bethel Lutheran Church to allow an Electronic Message Center (EMC) at 829 Appleton Road, Menasha.

Chairman Ellis opened the public hearing.

Charlie Stubblefield from Stubblefield Signs. He took responsibility for failure to take out the original sign permits for Bethel Lutheran Church.

Tim Meitner, Bethel Lutheran Church President. He stated the EMC will alert motorist child are present in that area, it will promote community activities at the church/school, and can display messages in multi languages. He has contacted some neighbors of the church/school and has not received any negative feedback.

Mark Becker, 816 Appleton Road, Menasha. He has no issues with allowing the EMC at Bethel Lutheran Church.

Ruth Huebner, 832 Appleton Road, Menasha. She commented there are no street signs to indicate a school/church area. The EMC will notify motorist of the school/church. She recommended dimming the sign at night.

Barbara Hanson, 1744 Lakeshore Drive, Menasha. She is the owner of 832 Appleton Road, Menasha. She does not have an issue with the EMC. She checked and it would not directly shine into the property at 832 Appleton Road.

Catherine Cruckshank, Plan Commission member. She explained the Plan Commission is in the process of reviewing the City ordinance on EMC. They want to establish guidelines for EMC.

Veronica Wendt, Teacher at Bethel Lutheran. She supports the EMC. It allows messages in multi languages. Menasha is a diverse community. She encourages the Board to grant the variance.

Chairman Ellis closed the public hearing.

D. MINUTES TO APPROVE

1. Board of Appeals, 1/9/19.

Moved by Comm. Roush seconded by Comm. Koslowski to approve minutes.

Motion carried on voice vote.

#### E. ACTION ITEMS

1. Request of Bethel Lutheran Church to allow an Electronic Message Center (EMC) at 829 Appleton Road, Menasha.

CDC Heim reported Bethel Lutheran Church is requesting to incorporate an electronic message center (EMC) with a proposed new internally illuminated monument sign. EMC is not permitted in a R-1, Single Family Residence District. She reviewed the regulations for granting a variance and explained Bethel Lutheran Church does not meet those regulations.

CDD Schroeder explained the requirement for granting a variance have not been satisfied. The decision to approve or deny the request for a variance must be on a case by case base. Staff recommends not granting the variance as they do not meet all the requirements. He explained changes to the City's EMC ordinance is being discussed by the Plan Commission and suggests letting the Plan Commission take up the issue.

General discussion ensued on:

- Timeline of when Plan Commission and Common Council will act on changes to EMC ordinance.
- Monument sign is allowed without EMC
- EMC was installed with monument sign without proper permits.
- EMC was turned off when notified of the violation.
- Other options to make motorist aware of the school/church area.
- Need to consider the entire City when updating ordinance.
- Other businesses and church/school that have EMC.
- Restrict hours EMC can operate.
- Requirements to grant variance have not been satisfied.

Moved by Comm. Ellis seconded by Comm. Roush to deny variance for an electronic message center as part of as part of the monument sign at 829 Appleton Road. A monument sign is still allowed. Also, the Plan Commission should continue to move forward on changes to the City ordinance on electronic message centers.

Motion failed on roll call 2-2.

Comm. Ellis and Roush voted yes. Comm. Koslowski and Kubiak voted no.

General discussion ensued on waiting until the Plan Commission and Common Council act on any changes to the EMC ordinance.

Moved by Comm. Kubiak seconded by Comm. Roush to postpone action on the variance request to on or before June 1, 2019.

Motion carried on roll call 4-0.

#### F. ADJOURNMENT

Moved by Comm. Ellis seconded by Comm. Kubiak to adjourn at 10:12 a.m.

Motion carried on voice vote.

Deborah A. Galeazzi, WCMC  
City Clerk





To: Board of Appeals

From: Kristi Heim, Community Development Coordinator

Date: April 5, 2019

RE: **Variance Request for Jerry Dold, 342 Park Street, Menasha**

**OVERVIEW**

***Property Address:*** 342 Park Street

***Property Owner:*** Jerome R. Dold and Geralyn M. Andrie

***Applicant:*** Jerry Dold, 342 Park Street, Menasha.

***Property Zoning:*** R-1 – Single Family Residence District.

***Surrounding Zoning:***

North: R-1 – Single Family Residence District

South: R-1 – Single Family Residence District, and R-2 Two-Family Residence District

East: R-1 – Single Family Residence District

West: R-1 – Single Family Residence District

***Variance Requested:*** Section 13-1-25(f)(2) of the City of Menasha Code of ordinances states “Minimum side yard – Six (6) feet and an aggregate minimum width on both sides of sixteen (16) feet.” The applicant is requesting allowance to place a portion of an addition within the minimum side yard setback.

***Reason for Variance:*** To allow an addition to be built onto the house located at 342 Park Street that will encroach into the north side yard setback by six (6) inches.

## **REGULATIONS FOR GRANTING A VARIANCE**

Per Section 13-1-153(d), the Board of Appeals must find the following five items to be true prior to granting a variance:

- 1) Hardship to the Property Owner due to Physiographical Considerations
- 2) Unique Property Conditions
- 3) Not an Exclusive Desire to Increase Property Value or Income
- 4) Will not be Detrimental to the Neighborhood
- 5) Will not Undermine the Spirit of the Zoning Code

## **ANALYSIS OF VARIANCE REQUEST**

Below is staff's analysis of each of the five required items per Section 13-1-153(d) as they pertain to the variance requested by Jerry Dold.

### **1. Hardship to the Property Owner due to Physiographical Considerations**

*SEC 13-1-153(D)1: "Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed."*

ANALYSIS: This property is used as a single family residence. The addition to the property, as proposed, could be modified to accommodate the setback requirements outlined in the Zoning Ordinance. The fact that a survey was completed after the plans for the addition were finalized does not constitute a hardship.

Absent a variance, the applicant has the ability to construct an addition to their existing home, so long as it meets zoning and building code regulations. Based on this, it is staff's opinion a hardship, as defined, is unfounded.

### **2. Unique Property Conditions**

*SEC 13-1-153(D)2: The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.*

ANALYSIS: There are no unique characteristics to this property. The home and yard layout are not exclusive to this property. The lot exceeds the minimum lot

size requirements within the R-1 zoning district. It is staff's opinion that the site presents no uniqueness and no site elements that diminish the property rights of the owner.

**3. *Not an Exclusive Desire to Increase Property Value or Income***

*SEC 13-1-153(D)3: The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.*

ANALYSIS: Although the addition will increase the value of the property, it is not the main reason as clearly explained in the applicant's application.

**4. *Will Not be Detrimental to the Neighborhood***

*SEC 13-1-153(D)4: The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.*

ANALYSIS: The Zoning Ordinance does not allow property owners to build within the respective setbacks of the zoning district. This is to ensure that adequate green space and a pleasing aesthetic environment is maintained throughout the district. Allowing buildings to be placed within established setbacks may have negative impacts to the surrounding properties and the neighborhood as a whole.

**5. *Will not Undermine the Spirit of the Zoning Code***

*SEC 13-1-153(D)5: The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.*

ANALYSIS: The purpose the Zoning Code is to ensure that all properties adhere to the established zoning standards for all new construction. Allowing variances to these established standards undermines the objectives of the zoning code in place.

**STAFF RECOMMENDATION**

**Staff recommends the variance to allow the six (6) inch encroach into the north side yard setback, as requested, be denied by the Board of Appeals.** Per the analysis presented above, staff deems that the requirements for granting a variance have not been satisfied. It should also be noted that each variance request brought before the Board of Appeals should be heard on its own merit and the decision to approve or deny the request must be decided on the case presented.



April 30, 2019

Jerry Dold  
342 Park Street  
Menasha, WI 54952

Dear Mr. Dold:

Zoning procedures require issuing a denial of the proposed addition to your home (Parcel ID # 3-00038-00) due to the side yard setback requirements on your lot. Absent the granting of a variance, the proposed construction of the addition would not be allowed. Your property is zoned R-1 Single Family Residence District which requires a minimum side yard setback of six (6) feet and an aggregate minimum width on both sides of sixteen (16) feet. The addition, as proposed, encroaches upon the required north side yard setback by six (6) inches.

We have received the required paperwork and will proceed with your variance request. The City Clerk will be contacting you regarding the date and time of the Board of Appeals meeting.

Please feel free to contact me with any questions relating to the variance process. Thank you for your corporation in this matter.

Sincerely,

Kristi Heim

C: City Attorney Pam Captain  
City Clerk Deborah Galeazzi  
Community Development Director Sam Schroeder  
Joe Stephenson, Associate Planner



## City of Menasha Application Appeal or Variance

SUBMIT TO:  
City of Menasha  
Dept. of Com. Development  
100 Main Street, Suite 200  
Menasha, WI 54952-3190  
PHONE: (920) 967-3650

### APPLICANT INFORMATION

Petitioner: Jerry Dold Date: 4/23/19  
Petitioner's Address: 342 Park St City: Menasha State: WI Zip: 54952  
Telephone #: ( 920 ) 751-0056 Fax: ( ) \_\_\_\_\_ Other Contact # or Email: (920) 915-6309 cell  
jerry.dold@canlines.com  
Status of Petitioner (Please Circle): Owner Representative Tenant Prospective Buyer  
Petitioner's Signature (required): *Jerry Dold* Date: 4/28/19

### OWNER INFORMATION

Owner(s): Jerry Dold and GERALYN ANDRLE Date: 4/23/19  
Owner(s) Address 342 Park St. City: Menasha State: WI Zip: 54952  
Telephone #: ( 920 ) 751-0056 Fax: ( ) \_\_\_\_\_ Other Contact # or Email: \_\_\_\_\_  
Ownership Status (Please Circle): Individual Trust Partnership Corporation

#### **Property Owner Consent: (required)**

By signature hereon, I/We acknowledge that City officials and/or employees may, in the performance of their functions, enter upon the property to inspect or gather other information necessary to process this application. I also understand that all meeting dates are tentative and may be postponed by the Community Development Dept. for incomplete submissions or other administrative reasons.

Property Owner's Signature: *Jerry Dold* *Geralyn M. Andrie* Date: 4/28/19

### APPEAL OR VARIANCE INFORMATION

Address/Location of Appeal/Variance Request: 342 Park St. Menasha, WI 54952

Tax Parcel Number(s): 730003800

Reason for Appeal/Variance Request: Survey of the lot uncovered that proposed addition will extend 6 in. beyond the 6 ft. setback from the  
side yard lot line.

Zoning Adjacent to the Site: North: R1-Single Family  
South: R1-Single Family  
East: R1-Single Family  
West: R1-Single Family Smith Park

Staff \_\_\_\_\_ Date Rec'd \_\_\_\_\_

**SUBMITTAL REQUIREMENTS – Must accompany the application to be complete.**

- ☐ Name and address of applicant and all abutting and opposite property owners of record
- ☐ Statement that the applicant is the owner or the authorized agent of the owner of the property
- ☐ Address and description of the property
- ☐ A site plan showing an accurate depiction of the property
- ☐ Completed Variance Questionnaire

➤ **Fee of \$350.00 is due at time of application, payable to the City of Menasha.**

**FEE IS NON-REFUNDABLE**

**SUMMARY OF PROCESS**

The application for variation shall be filed with the Zoning Administrator. The petitioner or owner should be present at the Board of Appeals meeting to discuss and answer possible questions regarding the request.

Neighborhood opinion is an important factor in the decision-making process. For complex or controversial proposals, it is recommended that the petitioner conduct a neighborhood meeting to solicit public input prior to action by the Board of Appeals. Community Development staff is available to offer assistance in compiling a mailing list for a neighborhood meeting. Please note that a meeting notice will be mailed to property owners within 100 feet of the subject property regarding your request.

The application package is reviewed by Community Development staff. A staff recommendation is prepared for consideration by the Board of Appeals. The petitioner will be provided with a copy of the staff memorandum and meeting notice several days prior to the Board of Appeals meeting.

The Board of Appeals will make the final decision regarding all appeal and variance requests.

For more information please contact the Community Development Department at 920.967.3650

## City of Menasha Variance Application Questionnaire

**Applicant:** Jerry Dold

**Site Address:** 342 Park St. Menasha, WI 54952

Menasha Ordinance 13-1-53(d) provides that the Board of Appeals shall evaluate a variance request based on the foregoing criteria. Before granting such a request, the Board must find that all of the criteria enumerated apply to the variance requested. Please address each statement; use additional sheets if necessary.

Describe the hardship to the property owner that would result if the variance were not granted and the exceptional, extraordinary, or unusual circumstance or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district:

The addition plans were developed over several years working with 2 different architects. The current plans meet as many criteria  
as possible for adding a workable kitchen space, providing a better view from the home to the back yard, and adding a first floor  
master bedroom and bath. The survey received when the house was purchased did not include dimensions of the buildings from the  
lot lines, so measurements were initially taken by tape measure. The addition was designed to meet the 6 ft. side yard setback requirement,  
but when a survey was performed on 4/15/19 in preparation for permit applications, it was discovered that the addition will in fact be  
5 ft. 6 in. from the north lot line. At this point there is no easy way to modify the plan without compromising the space required for access  
in the bedroom and bath, or removing kitchen features like the microwave shelf and/or pantry. Furthermore, the offset of the kitchen  
from the northeast corner of the house was specifically designed so that the roof lines would allow proper water runoff.

Explain why the conditions upon which the petition for the variance is based are unique to the property and necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity:

The neighbor to the south has a detached garage that is 2 ft. from the lot line, which falls within the 3 ft. side yard setback for detached  
garages. Our garage is 5 ft. from the lot line, so the garages are 7 ft. apart, which is greater than the minimum setbacks, maintaining  
fire safety and general aesthetics provided by the code even with the neighbor's variance. The neighbor to the north has a row of mature  
cedars planted along their fence, but the branches extend approximately 7 ft. onto our side of the lot line. We both benefit from the privacy  
provided by the cedars, but the neighbor gains an additional 7 ft. side yard based on the location on their lot. The proposed addition  
brings the size of our house to 3,212 sq. ft. which is still at the small end for the neighborhood. By comparison the houses directly south  
are 3,537 and 4,790 sq. ft. and the houses directly north are 3,018 and 4,140 sq. ft. respectively.

Provide evidence demonstrating that the purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property:

We have lived in the home for 25 years with no plans to relocate. On the contrary, the immediate use of the first floor master is to allow  
Geralyn's 92 year old father to move in with us. The purpose of the proposed addition is to provide a more workable kitchen space, provide  
a better view from the home to the back yard, and provide a first floor master bedroom. The variance will allow the floor plan to include  
enough space for wheelchair access to the bedroom and bath if needed in the future.

Describe how the granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located:

The addition plan has been discussed with the neighbors to the immediate north, they do not object to the 6 in. variance. There are no utilities running between the properties along the lot line in question, so access is not required. The neighbor's house is 10 ft. 3 in. from the lot line, so the houses will be 15 ft. 9 in. apart, which is greater than the 12 ft. minimum set back. This will maintain fire safety and general aesthetics if the variance is approved. The existing cedars on the adjacent property have branches that extend 7 ft. onto our property, but they are east of the proposed addition and will not be affected.

Explain why the proposed variance will not undermine the spirit and general or specific purposes of the zoning code:

The addition is far enough back from the sidewalk that the public will not notice the 6 in. difference of the code vs. the actual setback.

Further, the adjacent property has an existing solid 6 ft. 10 in. high fence in the area of the proposed addition that limits their view more than the new addition will.

Please submit a site plan showing an accurate depiction of the property and any other relevant or required documents.

*I certify that all information provided is to the best of my knowledge accurate and true.*

Property Owner:

  
Signature

Date:

4/28/19





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D.B.	Cindi Mac Swain
For	Dold
Date	9/5/18

Option 'J'

1 of 4





9'-0"

**South Elevation**

1/4"=1'-0"

28'-0"



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D.B.	Cindi Mac Swain
For	Dold
Date	9/5/18

Option 'J'

**2 of 4**





## East Elevation

1/4"=1'-0"



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D.B.	Cindi Mac Swain
For	Dold
Date	9/5/18

Option 'J'

3 of 4















